period expires, there are two possible conclusions, first, that the clause continues operative, thus compelling the insurer to contest the policy within the agreed period if at all, or second, that the rights of all the parties to the contract become fixed and determined at the death of the insured, and if the policy is then contestable it will remain so indefinitely. Authority in point is meagre, but that which exists clearly favors the former alternative. In *Prudential Insurance Co.* v. *Lear,* 31 App. D. C. 184, the insured died within the stipulated period. In discussing the case the court used language which clearly indicated that in their minds the clause continued operative after his death. However, the decision for the plaintiff did not turn on the point, for the defendant failed in his proof of fraud. In *Monahan* v. *Metropolitan Life Insurance Co.,* 180 Ill. App. 390, the appellate court adopted the second alternative and held that the rights of the parties became fixed as they stood at the death of the insured. However, this ruling was reversed when the case reached the Illinois Supreme Court (119 N. E. 68), the court saying that to limit the operation of the incontestability clause by requiring the agreed period to expire during the life of the insured, if at all, was unwarrantably to read additional words into the policy. Recently, in *Ramsey* v. *Old Colony Life Insurance Co.,* (Ill., 1921), 131 N. E. 108, the earlier supreme court decision was followed, and it may now be regarded as settled law in Illinois that the incontestability clause continues operative no matter when the insured may die. In *Ebner* v. *Ohio State Life Insurance Co.,* (Ind.), 121 N. E. 315, the same question arose upon a bill in equity for cancellation of a policy for fraud brought by the insurer after the death of the insured, but two days before the expiration of the period stipulated. The court in decreeing cancellation said that although ordinarily a bill in equity would not lie after the death of the insured because the insurer had an adequate defense at law to an action on the policy, yet in this case the remedy at law was not adequate because the incontestability period was still running. The beneficiary might not sue on the policy until after the stipulated period had expired. So this case necessarily supports the Illinois decisions and in addition the court expressly cites them with approval. "Incontestability" clauses are becoming increasingly numerous. They make good selling arguments for insurance agents. Furthermore, they are now required by statute in many states. It is to be expected that more cases in point will soon appear. A reasonable construction of the plain words of such clauses demands that the conclusion of the principal case prevail unless the clause expressly provides that the agreed period shall run its course during the lifetime of the insured.

LAW OF NATIONS—CONFISCATION OF ENEMY PRIVATE PROPERTY—WHEN USAGE DEVELOPS INTO BINDING CUSTOM.—After the conclusion of the armistice between Great Britain and Bulgaria, an inquisition was held and certain stocks and securities belonging to Ferdinand, former Tsar of Bulgaria, were declared forfeited to the Crown. Ferdinand appealed. *Held,* that the Crown has the right, under the common law, to seize and forfeit enemy private property found within the realm, but that this common law

right has been superseded by the Trading with the Enemy Acts. *In re Ferdinand, ex-Tsar of Bulgaria,* [1921], 1 Ch. 107.

The derivation of a rule from modern international usage had more to commend it in this case than in *The Marie Leonhardt, infra.* The usage had developed over a longer period and with more uniformity. Beginning at least as early as the sixteenth century, the rule that enemy private property within the country is subject to confiscation was gradually mitigated. Through municipal legislation, treaties, and common usage the practice developed of permitting enemies to remove, dispose of, or retain their property. There was no important instance of confiscation during the century which preceded the World War. There was also an impressive accumulation of theoretical opinion, including most European writers, in support of the alleged rule against confiscation. See CORBETT, LEADING CASES, [3rd Ed.], II, 61-2. The attitude of the courts, however, remained conservative. The old rule was asserted as late as the end of the seventeenth century. *Attorney-General* v. *Weeden,* (1699), Parker 267. At the beginning of the nineteenth century it was doubted whether the usage, apart from statute or treaty, had actually developed into a binding custom. *Johnson* v. *Twenty-One Bales,* (1814), 13 Fed. Cas. 855. It was held by the Supreme Court of the United States that war does not of itself work a confiscation, but said that war gives the right to confiscate. *Brown* v. *United States,* (1814), 8 Cr. 110. Lord Ellenborough's decision in *Wolff* v. *Oxholm,* (1817), 6 M. & S. 92, holding the Danish confiscatory ordinance contrary to the law of nations and void, was certainly anomalous and probably unsound from every point of view. In the twentieth century the outstanding event in this connection was the return to earlier practice in the treaties of peace at the end of the World War. See GARNER, INT. LAW AND THE WORLD WAR, I, ch. 4; SCHUSTER, THE PEACE TREATY IN ITS EFFECTS ON PRIVATE PROPERTY, BRITISH YEAR BOOK OF INT. LAW (1920-21), 167. The instant case concedes living force to the same harsh principle. It has been assailed as reactionary and dangerous. See 30 YALE L. JOUR. 845. But could the court safely have done otherwise than take the conservative position? While a supernational tribunal, had one existed, might well have derived a rule from modern international usage, it is not apparent that a national court under such circumstances can be expected to adventure so advanced a decision. Does not the criticism misconceive the function of national courts? See PICCIOTTO, RELATION OF INT. LAW TO THE LAW OF ENGLAND AND OF THE UNITED STATES, ch. 5 and *passim.*

LAW OF NATIONS—EFFECT OF CONCLUSION OF PEACE ON PROPERTY SUBJECT TO CONDEMNATION AS PRIZE—STATUS OF FREE CITY OF DANZIG.—At the outbreak of the war between Great Britain and Germany, three ships belonging to a Danzig corporation were seized as prize in British ports. Upon the conclusion of peace, the treaty reserved to the allied powers the right to retain and liquidate the property of German nationals within their territories, "including territories ceded to them by the present treaty," with a proviso that "German nationals who acquire *ipso facto* the nationality of